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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,707	09/17/2003	Yasuhiko Nomura	57810-077	3966
7590	01/04/2006			EXAMINER GOLUB, MARCIA A
McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			ART UNIT 2828	PAPER NUMBER

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/663,707	NOMURA ET AL.	
Examiner	Art Unit		
Marcia A. Golub	2828		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ~~4~~ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 November 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 9,10,12-15,17 and 20-22 is/are allowed.

6) Claim(s) 1-8,11,16 and 19 is/are rejected.

7) Claim(s) 18 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. ____ .
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/29/2005 have been fully considered but they are not persuasive. Regarding the argument made about the 103(a) rejection of claims 1-8, 11, 16 and 19: the added limitation to claim 1 that limits the range of the distance between the active layer and the substrate from *about 0.5 um to about 4 um* is not sufficient to overcome the reference. The reference disclosed the thicknesses of individual layers interpose between the active layer and substrate to be approximate (paragraph 0097). The total distance in the reference adds up to be *5.1 um*, however the reference discloses this number to be an approximation, which means that the actual thickness can be less than that. The claim language specifies the upper limit to be *about 4 um*, the term "about" can mean less than that or more than that. Therefore, as best interpreted by the examiner, "*approximately 5.1 um*" **is** "*about 4 um*".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 8, 11, 16 and 19 are rejected under 35 U.S.C. 103(a) as being obvious over Hata (U.S.Pub 2002/0008242), and further in view of Motoki et al. (U.S.Pub. 2002/0189532).

Regarding **claim 1, 3 and 8**, paragraph 15 of Hata discloses: “a nitride-based semiconductor laser device comprising: a substrate consisting of GaN” (paragraph 209); “ an n-type cladding layer [first n-type layer] formed on said substrate an active layer [light emitting layer] consisting of a nitride-based semiconductor [GaN] (paragraph 97) formed on said n-type cladding layer; a p-type cladding layer [first p-type layer] formed on said active layer; and a light guide layer [second n-type layer that functions as an optical guide layer] (paragraph 17) formed only between said active layer and said p-type cladding layer [provided between at least the light emitting layer and the first p-type layer], wherein a distance between the active layer and the substrate is within the range of about 0.5 um to about 4 um.” Hata specifies the distance between the active layer and the substrate to be approximately 5.1 um (paragraph 0097). However, the term “about” can mean less than that or more than that and the term “approximately” can mean less than that or more than that. Therefore, as best interpreted by the examiner, *“approximately 5.1 um” is “about 4 um”*.

Hata specifies that the substrate can be composed of GaN but does not disclose that the substrate is doped with an impurity “wherein the said impurity doped into said substrate is Oxygen.” However, paragraph 126 of Motoki discloses a substrate for the light emitting devices that comprises a GaN crystal doped with Oxygen.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Motoki into the device of Hata by doping GaN substrate with Oxygen. The ordinary artisan would have been motivated to modify Hata in the manner set forth above for at least the purpose of creating a

substrate that has good cleavage and good conduction, which allows a bottom n-electrode to be placed on the opposite side of the substrate.

Regarding **claim 2**, Hata and Motoki disclose a nitride-based semiconductor laser device as described above, in addition “said substrate absorbs part of light generated in said active layer.” Absorption of light by the substrate is an inherent feature of the structure that does not have light guide layer between the active layer and the substrate. (Example: JP 2002-124737 as sighted by the applicant)

Regarding **claims 4, 11, and 19**, Hata and Motoki disclose a nitride-based semiconductor laser device as described above, “further comprising a p-side contact layer formed on said p-type cladding layer” [p-type contact layer] (paragraph 101 of Hata) in addition “said p-side contact layer, n-type cladding layer and a light guide layer are undoped.” Hata and Motoki do not specify whether or not the p-side contact layer, the n-type cladding layer and the light guide layer are doped. However, using undoped layers in a semiconductor device is well known in the art. An undoped layer has an advantage that the charge carrier absorption and the scattering of charge carriers at ionized defects is reduced in the immediate junction region.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Hata and Motoki in the manner set forth above for at least the purpose of reducing the absorption of light by the specified layers and therefore reducing the current needed to operate the laser.

Regarding **claim 6**, Hata and Motoki disclose a nitride-based semiconductor laser device as described above, in addition “a layer, formed between said substrate

and said n-type cladding layer consisting of an undoped nitride-based semiconductor.”
[undoped GaN layer] (paragraph 97 of Hata)

Regarding **claim 16**, Hata and Motoki disclose a nitride-based semiconductor laser device as described above, in addition “an impurity introduction layer [current-blocking layer] formed on a region of said p-type cladding layer [on top of the p-cap layer] other than on a current path part [strip opening becomes a current path] of said p-type cladding layer. (paragraph 100 of Hata)

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being obvious over Hata (U.S.Pub 2002/0008242) and Motoki et al. (U.S.Pub. 2002/0189532) as applied to claims 1 and 6 and further in view of and Goetz et al. (U.S.Pat.6,441,393) .

Regarding **claims 5 and 7** Hata and Motoki disclose a nitride-based semiconductor laser device as described above, but do not disclose that the said n-type cladding layer is doped with Ge. The nitride-based semiconductor laser device disclosed above “further comprises a layer, formed between said substrate and said n-type cladding layer, consisting of a nitride-based semiconductor” [undoped GaN layer]. Hata does not specify the said layer to be doped with Ge. However, column 2 lines 13-21 of Goetz discloses a semiconductor device with n-type layers of III-V nitride doped with Ge.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Goetz into the device of Hata by doping the said n-type nitride based layers with Ge. The ordinary artisan would have

been motivated to modify Hata in the manner set forth above for at least the purpose of improving conductivity and providing longer wavelength light emission.

Allowable Subject Matter

Claims 9, 10, 12-15, 17, 20-22 are allowed.

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The reasons for allowance are outlined in the previous office action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Info

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcia A. Golub whose telephone number is 571-272-8602. The examiner can normally be reached on M-F 9-6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minsun Harvey can be reached on 571-272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER